

App. No. 10/090,911
Atty. Docket No. 8449M
Amdt. dated September 20, 2005
Reply to Office Action of July 22, 2005
Customer No. 27752

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REMARKS

Claim Status

Claims 24, 30 – 57 are now pending. Claims 24, 32, 33, 55, 56, and 57 have been amended. Basis for “rinse bath solution” is found *inter alia* at page 5, lines 17-21. Basis for “first rinse step” is found *inter alia* at page 33, lines 30-34. Basis for the term “single rinse” is found *inter alia* in the claims as originally filed, specifically Claim 29.

INFORMATION DISCLOSURE STATEMENT

Examiner requests that applicant provide a list of the 3-5 most pertinent references from the Information Disclosure Statement submitted July 5, 2005. Applicant hereby submits references in a Supplemental PTO/SB08A.

CLAIM REJECTIONS UNDER 35 U.S.C. §103 OVER WO 99/57259

The claims are rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over WO 99/57259 (“WO ‘259”). Applicant traverses the rejection.

Applicant respectfully asserts that the Final Office Action dated 07/22/2005 (hereinafter “Action”) fails to establish a *prima facie* case of obviousness. Applicant asserts the claims are directed *inter alia* to the use of a composition in a *first* rinse bath solution. The Action fails to establish this aspect of the invention. It is well established that “[a]ll words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385 (CCPA 1970) (emphasis added). The Action ostensibly side steps the word “first” by purporting:

Note the teaching at the 3rd full paragraph on p. 16 that the compositions may be used for manual treatment of fabrics and as softening treatments after laundering. The examiner takes the position that this passage may be fairly construed as teaching the use of the disclosed compositions for softening by hand after laundering. In any event, applicant's method steps are draw only to contacting fabric with the recited compositions, and contact is clearly disclosed in the reference. (Page 3, lines 15 – 21).

Applicant asserts that the Action fails to establish that '259 teaches or suggests adding a composition to a first rinse bath solution – much less with a motivation and

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reasonable expectation of success in doing so. At best, the 3rd full paragraph on page 16 of '259 discloses conventional rinse processes.

The compositions of the invention may for example, be formulated as hand and machine laundry detergent compositions including laundry additive compositions and compositions suitable for use in the soaking and/or pretreatment of stained fabrics, rinse added fabric softener compositions. A rinse cycle with or without the presence of softening agents is also contemplated.

Conventional rinse processes do not contemplate the use of a composition in a *first* rinse bath solution or a *single* rinse bath solution. Rather, in a conventional rinse process it is the final or last rinse to which a fabric softener is added in a washing machine. Indeed, Applicant submits the term "final" connotes that there is at least one preceding step to arrive at the final step. In support of this assertion, Applicant attaches exhibits to this RCE. These exhibits include selected passages from laundry machine washer instructions from at least two manufactures. Exhibit 1 is directed to a WHIRLPOOL use and care guide and Exhibit 2 is directed to a ROPER user washer user instructions.

WHIRLPOOL (Ex. 1) instructs the user at page 14, first column, line 7 that the fabric softener is dispensed in the last rinse. Whirlpool also discloses that the rinsing process is repeated. Similarly, ROPER (Ex. 2) at page 4, first column, line 18 states that it is in the final rinse ONLY that fabric softener is to be added. Indeed, the instructions place the word "ONLY" in all capital letters to emphasize this point. In contrast, the present invention claims the use of the composition in the *first* rinse bath solution (or single rinse bath solution).

In the hand washing context, Applicants submit that state of the art teaches that clothing that is repeatedly hand rinsed thoroughly until there is no sign of detergent using repeated rinse bath solutions. For support of this assertion, Applicant submits selected passages from the book: How to Clean and Care for Practically Anything, Round Table Press, Inc., New York, NY (2002) and attached herein as Exhibit 3. The passage in question calls for, in the context of hand washing, to "[r]inse thoroughly until there is no sign of detergent." The "sign of detergent," Applicant submits, is the formation of suds in the rinse water. One aspect of the invention provides for the use of the Suds Suppressing System (as described in the specification at page 9, lines 26 *et seq.*) to remove this "sign of detergent" thereby, in part, obviating the need for multiple rinse steps. In one embodiment

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of the invention, the present invention provides a composition that exhibits a suds reduction of at least about 90% under the Suds Reduction Test. Contrary to the Action's assertions otherwise, this is not a matter of "routine optimization" (page 4, lines 14-16) but rather a functional limitation directed to a long felt need of a first rinse or single rinse fabric conditioning composition.

Still further, the use of a fabric softener active and a surfactant scavenger, per the present invention, provides the surprising benefit of providing fabric softening to fabric such that, at least in one embodiment, the rinse solution is substantially free from visible "flocs" or "visible precipitates." Applicant submits that the current state of the art may suggest that adding a fabric softener in the presence of detergent may yield to undesirable results. For example, according to the article: Munson, Deanna M., "Laundering Guide," Kansas State University (hereinafter "Munson") and attached herein as **Exhibit 4**; at page 5, third column, lines 38 *et seq.*, states that rinse-added fabric softeners should only be used in the rinse cycle and should not be used with detergent. They will react and cause a white, sticky residue on clothes. This residue is what the present application terms "flocs." See page 5, lines 22 - 25 of the present application.

As used in the following description and claims, "visible precipitates" or "flocs" refers to flocculated matter which is generally opaque in nature. Although not necessarily solid or compact, such flocs are sufficiently large to be noticeable by the unaided eye, typically, not less than about 0.4 mm when measured along their shortest axis.

The Munson article also at page 6, first column lines 1 - 10 indicates that the fabric softener should be added to the final rinse. One skilled in the art will readily appreciate that the first rinse will contain a significant amount of surfactant carryover from the washing step. As such, one skilled in the art will appreciate that softening fabric under such high anionic carryover conditions poses challenges that conventional fabric softeners may not have addressed.

Conclusion

In view of the foregoing remarks, reconsideration of the application, and allowance of the now pending claims is respectfully requested.

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Respectfully submitted,

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